

NEBRASKA DEPARTMENT OF NATURAL RESOURCES

TITLE 263 – REGULATIONS GOVERNING THE  
ADMINISTRATION OF THE  
NATURAL RESOURCES WATER QUALITY FUND

NEBRASKA ADMINISTRATIVE CODE  
NEBRASKA DEPARTMENT OF NATURAL RESOURCES  
TITLE 263  
RULES AND REGULATIONS GOVERNING THE  
ADMINISTRATION OF THE NATURAL RESOURCES  
WATER QUALITY FUND

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THE ADMINISTRATION OF THE NATURAL RESOURCES WATER QUALITY FUND

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Qualified Expenditures	Sec. 2-15,123, as amended by Section 2, LB 329, 97 <sup>th</sup> Nebraska Legislature, 1 <sup>st</sup> Session (2001)	Chapter 3

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### Chapter 1 - GENERAL PROVISIONS

001 Purpose of Rules. These rules are adopted for the purpose of administering the Natural Resources Water Quality Fund governed by Sections 2-15,122 and 2-15,123, as amended by Sections 1 and 2, LB 329, 97<sup>th</sup> Nebraska Legislature, 1<sup>st</sup> Session (2001).

002 General Availability of Funds. Financial assistance from the Fund shall be available only to natural resources districts which have programs qualifying for such assistance under these rules and which have entered into a contractual arrangement with the Department setting forth the terms for providing such financial assistance.

003 Definitions. As used in these rules and regulations, unless the context otherwise requires:

003.01 "Commission" shall mean the Natural Resources Commission created pursuant to Section 2-1504, R.S. Supp., 2000, and amendments thereto;

003.02 "Department" shall mean the Nebraska Department of Natural Resources created by Section 81-101, R.S. Supp., 2000, and amendments thereto;

003.03 "Director" shall mean the individual holding the position of Director of Natural Resources created by Section 81-102, R.S. Supp., 2000;

003.04 "District" or "Natural Resources District" shall mean a district created and operating in accordance with Chapter 2, Article 32, Reissue Revised Statutes of Nebraska; and

003.05 "Fund" shall mean the Natural Resources Water Quality Fund created by Section 2-15,122, as amended by Section 1, LB 329, 97<sup>th</sup> Nebraska Legislature, 1<sup>st</sup> Session (2001).

004 Access to Files and Compliance with Agreement and Rules and Regulations. Each participating natural resources district shall maintain records adequate to document that the district had expenditures

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qualified pursuant to Chapter 3 of these rules in amounts equal to or exceeding the amount provided from the Fund plus the required cost-share. Such files shall be available for inspection by personnel of the Department and by representatives of the State Auditor's office during normal business hours of the district. In the event that the Director becomes aware of a violation of the contract between the district and the Department or of these rules and regulations, the Director may terminate the contract and/or demand reimbursement of any state funds related to such violation.

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### Chapter 2 –DISTRIBUTION OF FUNDS

001 Schedule for Distributing Funds. Funds shall be distributed, pursuant to Section 002 of this chapter to participating districts on or before the 15<sup>th</sup> day of August, each year and at such other times during the year as the Director determines that sufficient additional funds are available to make a distribution and the participating districts indicate their ability to use additional funds.

002 Determining Distributions. The money available for each distribution from the Fund shall be divided among participating districts as follows:

002.01 Except as provided by Section 004 of this Chapter, sixty percent of the funds available shall be distributed to districts on the basis of proportionate fertilizer sales within the districts during the preceding three calendar years for which sales records by county are available from Nebraska Agricultural Statistics or a comparable source. For a county which is contained within more than one district, each district's proportion of sales shall be based upon its proportionate land area within the county. If sales records are not made available for any county, the Director shall establish that county's portion of the statewide sales total. That decision shall be based upon the best available information which may include, but not be limited to, county land area and sales in adjacent counties. In the event the Commission chooses to reserve up to ten percent of funds available for special distribution pursuant to 004 of this Chapter, the amount of funds available for distribution pursuant to this subsection shall be decreased by the amount reserved .

002.02 Twenty percent of the funds available shall be divided equally among all participating districts.

002.03 Twenty percent of the funds shall be distributed among districts which have (1) a designated ground water management area for water quality purposes or (2) a clean lakes watershed area designated pursuant to Section 314 of the Clean Water Act, or comparable federally funded program. Each district's distribution pursuant to this subsection shall be based

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upon the proportionate land area in that district which is in such a designated area compared to the total land area within the state in such designated areas. If specific lands are in more than one such designated area, they shall be counted only once for purposes of this subsection.

003 At least thirty days prior to a distribution pursuant to Section 002 of this chapter, the Department shall notify each district of the estimated amount of funds to be distributed to that district. If any district does not believe it could fully utilize any such distribution in the amount estimated, it shall provide the Department with timely notification of the amount of funds which it could utilize for qualified programs. The difference between that amount and the amount that would otherwise be distributed to that district pursuant to Section 002 of this Chapter will be divided among the other participating districts according to subsections 002.01 through 002.03.

004 The Commission may reserve up to ten percent of the funds that otherwise would be distributed pursuant to Section 002 of this Chapter as part of the first distribution in any fiscal year. Any such reserved funds will be distributed by the Director to participating districts for specific programs and/or projects by September 15 of the fiscal year in which they are to be expended. Application for such funds shall be made on a form provided by the Department. If the available funds are not sufficient to fund all those for which application has been made, priority will be given to programs and projects offering innovative ways to address water quality problems. No district shall receive more than twenty-five percent of the funds distributed pursuant to this section in any one fiscal year unless funds are available for all other qualified applications submitted.

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### Chapter 3 – QUALIFYING EXPENDITURES

001 Qualifying Programs and Projects. Subject to the requirement of Section 002 of this Chapter, a participating district may expend funds distributed pursuant to Chapter 2 of these rules for costs incurred by that district for any of the following programs and projects: (1) the purchase, installation, maintenance, and use of ground water sampling and testing equipment; (2) the purchase, installation, maintenance, and use of surface water sampling and testing equipment; (3) education and information programs related to water quality issues; (4) administration of ground water quality management areas ; (5) purchase, installation, and maintenance of special monitoring wells and related equipment; (6) flow meters and other equipment required in ground water management areas ; (7) source water protection programs and activities; (8) preparation and updating of ground water management plans; (9) implementation of water quality “best management” practices in both rural and urban areas, including programs which cost-share expenses of landowners and operators in installing or using such practices; (10) soil sampling and testing programs for soils in and below the crop root zone; (11) water quality research; (12) well decommissionings; (13) Chemigation permitting and inspection programs; (14) investigations, because of water quality concerns, of potential replacement sources of water for public water suppliers; (15) animal waste management activities including research, treatment lagoon cost-sharing, feedlot waste effluent management, and inactive feedlot management; and (16) other water quality related programs and projects approved in advance by the Director. The Director shall have sole discretion to determine whether a district’s program qualifies for funding pursuant to this subsection.

002 Cost-Share Requirement. For each two dollars expended by the district from the funds distributed pursuant to Chapter 2 of these rules, the district shall spend at least three dollars in funds derived from other non-state sources for the programs and projects identified in Section 001 of this chapter.

003 Certification of Expenditures and Reimbursement of Funds. Funds distributed pursuant to Chapter 2 of these rules and regulations must be expended by the district in the fiscal year distributed. On or before August 31, the district shall account for expenditure of the funds made available from the Fund in the previous fiscal year. The Department shall provide a form for such purposes. In the event that all funds distributed in the previous fiscal year were not expended by June 30 of that fiscal year, or

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that any funds were expended for programs or projects that the Director determines were not qualified for funding, or that the district did not match the funds distributed in the proportion required by Section 002 of this chapter, the district shall reimburse the Department for the amount thus unexpended, improperly expended, or unmatched. All such reimbursed funds shall be redeposited in the Fund for redistribution in accordance with Chapter 2 of these rules and regulations. No new distributions shall be made to a district which has not made a reimbursement required by this section.